



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS    OCTOBER 14, 2014    1:30 P.M.**

**CONSENT AGENDA**

- \*    Approval of minutes – October 7, 2014
- \*    Confirmation of committee appointments



**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS      OCTOBER 14, 2014      1:30 P.M.**

**AGENDA**

**CALL TO ORDER**

- \* Invocation                      Pledge                      Roll Call
- \* Presentations and Recognition
- \* Public Comment: Persons may speak on scheduled agenda items 1-2/Consent Agenda
- \* Consent Agenda

**GENERAL BUSINESS**

1. Consider a resolution authorizing the Mayor to sign documents to receive funding through the Department of Homeland Security Grant Program
2. Consider a resolution authorizing the City Manager to execute a new Lease Agreement with the Art Museum of Southeast Texas

**COMMENTS**

- \* Councilmembers/City Manager comment on various matters
- \* Public Comment (Persons are limited to 3 minutes)

**EXECUTIVE SESSION**

- \* As authorized by Section 551.087 of the Government Code, to discuss and deliberate economic development negotiations regarding a business entity proposing a hotel and water park development at Ford Park

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

**October 14, 2014**

Consider a resolution authorizing the Mayor to sign documents to receive funding through the Department of Homeland Security Grant Program

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## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Laura Clark, Chief Financial Officer

**MEETING DATE:** October 14, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the Mayor to sign documents to receive funding in the amount of \$188,831 through the Department of Homeland Security Grant Program.

### **BACKGROUND**

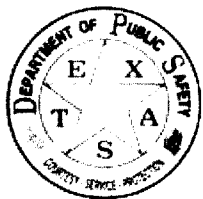
The Homeland Security Grant Program consists of a number of grant programs, one of which is the State Homeland Security Program. Beaumont was awarded \$188,831 which is intended to purchase sixty-two (62) portable radios with accessories such as cases, and chargers. The new radios will be utilized in the Police Department. Any surplus radios will be assigned to other city departments.

### **FUNDING SOURCE**

U.S. Department of Homeland Security Grant Program. No local match is required.

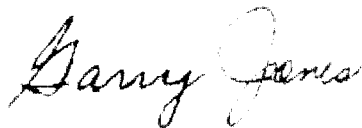
### **RECOMMENDATION**

Approval of resolution.



## Texas Department of Public Safety

### 2014 Sub-Recipient Award for City of Beaumont

<b>1. General Award Information</b>		<b>Reference/Encumbrance No:</b>	
<b>Date of Award: September 16, 2014</b>		<b>Prepared By: Lara, Pete H.</b>	<b>3. SAA Award Number: 14-SR 7000-01</b>
<b>4. Sub-Recipient Name and Address</b>		<b>5. Federal Grant Information</b>	
Mayor Becky Ames City of Beaumont P.O. Box 3827 Beaumont, TX 77704-3827		<b>Federal Grant Title:</b> Homeland Security Grant Program (HSGP) State Homeland Security Program (SHSP)	
		<b>Federal Grant Award Number:</b> EMW-2014-SS-00029	
		<b>Federal Granting Agency:</b> U.S. Department of Homeland Security(DHS) Federal Emergency Management Agency (FEMA)	
		<b>Date Federal Grant Awarded to TxDPS:</b> August 6, 2014	
		<b>CFDA:</b> 97.067	
<b>6. Award Amount and Grant Breakdowns</b>			
SHSP LETPA  \$188,831.00		<b>Grant Period:</b>	
		<b>From:</b> Sep 1, 2014	<b>To:</b> Jan 31, 2016
(The SAA must receive all invoices by the end of grant period)			
<b>7. Statutory Authority for Grant:</b> The Department of Homeland Security Appropriations Act, 2014, (Public Law 113-76), and The Homeland Security Act of 2002 as amended (Public Law 107-296), (6 U.S.C. § 603).			
<b>8. Method of Payment:</b> Primary method is reimbursement.			
<b>9. Debarment/Suspension Certification:</b> The Sub-Recipient certifies that the sub-recipient and its contractors/vendors and principals are not debarred,suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not have active Exclusions listed at <a href="https://www.sam.gov/portal/public/SAM/">https://www.sam.gov/portal/public/SAM/</a>			
<b>10. Agency Approvals</b>			
<b>Approving TxDPS Official:</b> Garry Jones Deputy Assistant Director Texas Homeland Security State Administrative Agency Texas Department of Public Safety		<b>Signature of TxDPS Official:</b> 	
<b>11. Sub-Recipient Acceptance</b>			
I have read, understood and agree to this Sub-Recipient Agreement consisting of this Award and the attached Terms and Conditions.			
<b>Print name and title of Authorized Sub-Recipient Official:</b>		<b>Signature of Sub-Recipient Official:</b>	
<b>Enter Employer Identification Number (EIN) or Federal Tax Identification Number:</b>		<b>DUNS Number:</b>	<b>Date Signed :</b>
<b>DUE DATE:</b> October 31, 2014 Signed Award with Terms and Conditions must be returned to <a href="mailto:SAA_SRA@dps.texas.gov">SAA_SRA@dps.texas.gov</a> on or before the due date.			

# 2014 TERMS AND CONDITIONS

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## Instructions:

The Sub-recipient shall:

1. Fill in the information and sign the Grant Sub-Recipient Award;
2. Certify they have read and understand these Terms and Conditions;
3. Certify to the statements provided in Exhibits A, B, C and D located at the back of this document by filling in contact information and signing all exhibits, and
4. Return all documents via email to [SAA\\_SRA@dps.texas.gov](mailto:SAA_SRA@dps.texas.gov) on or before the date provided in the transmittal letter and/or in this Grant.

## 1. Grant Sub-recipient Agreement

This Grant Sub-recipient Agreement (consisting of this 2014 Grant Sub-recipient Award and these Terms and Conditions) is made and entered into by and between the Department of Public Safety / Texas Homeland Security State Administrative Agency, an agency of the State of Texas, hereinafter referred to as "DPS/THSSAA," and the funds recipient, hereinafter referred to as the "Sub-recipient" or "Sub-grantee." Furthermore, DPS/THSSAA and the Sub-recipient are collectively hereinafter referred to as the "Parties." This Grant Sub-recipient Agreement (SRA), or otherwise referred to herein as "this Grant" or "this Agreement", is only an offer until Sub-recipient returns the signed copy of this Grant on or before the date provided in the transmittal letter and/or in this Grant Sub-recipient Award.

The FY 2014 Homeland Security Grant Program (HSGP) funding plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal (NPG) of a secure and resilient Nation. HSGP funding shall be used for statutorily eligible costs related to the planning, organization, equipment, training, and exercise needs that prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events. This program provides an integrated mechanism that builds and sustains core capabilities to support the Nation's Preparedness against terrorist attacks, major disasters, and other emergencies.

The FY 2014 Nonprofit Security Grant Program (NSGP) funding plays an important role in the implementation of the National Preparedness System (NPS) by supporting the development and sustainment of core capabilities. Core capabilities are essential for the execution of each of the five mission areas outlined in the NPG. NSGP provides funding support statutorily eligible costs to include target hardening and other physical security enhancements and activities to nonprofit organizations that are at high risk of terrorist attack and located within one of the specific Urban Areas Security Initiative (UASI)-eligible Urban Areas. While this funding is provided specifically to high-risk nonprofit organizations, the program seeks to integrate nonprofit preparedness activities with broader State and local preparedness efforts. It is also designed to promote coordination and collaboration in emergency preparedness activities among public and private community representatives, as well as State and local government agencies.

Sub-recipient may not assign or transfer any interest in this Grant without the express, prior written consent of DPS/THSSAA. If Sub-recipient issues subawards as part of this Grant project, Sub-recipient shall include and require its subawardees to comply with the terms and conditions of this Grant.

The term "Sub-recipient agreement funds" as used in this Grant means funds provided by DPS/THSSAA under the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) grant programs (also referred to herein as DHS/FEMA). The term "Sub-recipient's funds" or match funds as used in this Grant means funds provided by the Sub-recipient.

## 2. Overview and Performance Standards

All allocations and use of funds under this Grant shall be in accordance with the FY 2014 Funding Opportunity Announcement (FOA) for the Federal Grant Title specified on this Grant, and such FY 2014 FOA is incorporated by reference herein. Sub-recipient shall read, understand and accept the FY 2014 Funding Opportunity Announcement as binding.

A. **Standard of Performance.** Sub-recipient shall perform all activities and projects entered into the DPS/THSSAA web-based grants management system which are approved by DPS/THSSAA. Any change to a project shall receive prior written approval by the appropriate local, regional and state-level grant administrator(s). Sub-recipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Grant, including but not limited to the following Exhibits:

1. Assurances – Non-Construction Programs, hereinafter referred to as "Exhibit A"
2. Assurances – Construction Programs, hereinafter referred to as "Exhibit B"
3. Certifications, hereinafter referred to as "Exhibit C"
4. State of Texas Assurances, hereinafter referred to as "Exhibit D"

B. **Failure to Perform.** In the event Sub-recipient fails to implement the project(s) entered and approved in the DPS/THSSAA web-based grants management system, or comply with any provision of this Grant, Sub-recipient shall be liable to DPS/THSSAA for an amount not to exceed the award amount of this Grant and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any other grant program funds administered by DPS until repayment to DPS/THSSAA is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this Grant. Failure to timely implement projects may reduce future funding in additional DHS/FEMA and/or other grant programs administered by DPS.

## 3. Environmental Review

Sub-recipient shall assess its federally funded projects for potential impact to environmental resources and historic properties. Sub-recipient shall submit any required screening form(s) as soon as possible and shall comply with deadlines established by DPS/THSSAA. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact. Sub-recipient shall include sufficient review time within its project management plan to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the Mayor be and she is hereby authorized to receive funding in the amount of \$188,831 through the FY 2014 Homeland Security Grant Program (HSGP), State Homeland Security Program (SHSP) for the purchase of sixty-two (62) ruggedized portable radios, with accessories, for use by the Police Department; and,

BE IT FURTHER RESOLVED THAT the Mayor be and she is hereby authorized to execute all documents necessary to accept grant funding through the FY 2014 Homeland Security Grant Program (HSGP), State Homeland Security Program (SHSP) for the purchase of sixty-two (62) ruggedized portable radios, with accessories, for use by the Police Department in the amount of \$188,831.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 14th day of October, 2014.

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- Mayor Becky Ames -

**October 14, 2014**

Consider a resolution authorizing the City Manager to execute a new Lease Agreement with the Art Museum of Southeast Texas

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## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**MEETING DATE:** October 14, 2014

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to execute a new Lease Agreement with the Art Museum of Southeast Texas.

### **BACKGROUND**

The City of Beaumont owns the land and building that is leased and utilized by the Art Museum of Southeast Texas. The Art Museum has leased the property since 1986.

The City and Art Museum have agreed to a new 20 year lease that would commence on the 30<sup>th</sup> day of December, 2014. The Art Museum would continue to pay the City \$1.00 per year for rent in return for the building to be operated as an art museum. The new agreement also better defines the maintenance responsibilities of both parties.

A copy of the proposed agreement is attached for your review. An annual agreement for the operation of an art museum is attached as Exhibit A. For FY 2015, the City will pay the Art Museum \$15,000 per month towards the operating expenses of the Museum. The City Council approved the annual funding on September 30, 2014.

### **FUNDING SOURCE**

Funds were budgeted in the General Fund and the Hotel Occupancy Tax Fund for the FY 2015 funding amount.

### **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute a twenty (20) year Lease Agreement with the Art Museum of Southeast Texas for the lease of the land and building utilized as an art museum at an annual rental fee of \$1.00 commencing on December 30, 2014. The Lease Agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 14th day of October, 2014.

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- Mayor Becky Ames -

## LEASE AGREEMENT

STATE OF TEXAS §

COUNTY OF JEFFERSON §

WHEREAS, the City of Beaumont, a municipal corporation of the State of Texas, and the Art Museum of Southeast Texas, a Texas non-profit corporation, entered into an Lease Agreement on the 30th day of December 1986 wherein the City of Beaumont, hereinafter referred to as "Landlord", and the Art Museum of Southeast Texas, hereinafter referred to as "Tenant", agreed to a twenty (20) year lease on the land and building to be used as an art museum; and,

WHEREAS, Landlord and Tenant desire to amend such lease in its entirety to read as follows:

WITNESSETH:

### ARTICLE 1 - Description of Lease Premises

For and in consideration of payment by Tenant of the rental hereinafter reserved to Landlord and the performance by Tenant of the covenants and agreements hereinafter contained to be performed by Tenant, and in accordance with all of the provisions hereinafter set forth, Landlord does hereby lease and let unto Tenant, and Tenant does hereby take and lease from Landlord, the following described real property and premises (the "leased premises");

That certain land more fully described in Exhibit "A", attached hereto and made a part hereof by this reference, hereinafter called the "Land", and the art museum building, parking facilities, landscaping, and other improvements as may be constructed on the Land by Tenant, which improvements are hereinafter called the "Building" or "Facilities."

EXHIBIT "A"

## ARTICLE 2 - Term of Lease

The term of this lease shall be for twenty (20) years commencing on the 30th day of December, 2014, and terminating at 11:59 p.m. on the 29th day of December, 2034, if not sooner terminated as hereinafter provided.

## ARTICLE 3 - Rental

Tenant shall pay to Landlord as rent hereunder the sum of ONE DOLLAR (\$1.00) per year payable on the 30th day of December, 2014 and on the same day of each calendar year of the term of this Lease commencing on the 30th day of December, 2014.

## ARTICLE 4 - Use and Occupancy

4.1 Tenant shall use and occupy the leased premises as an art museum open to the public, for the promotion of the arts and for related purposes. Tenant agrees to operate the leased premises as an art museum during the full term of this Lease.

4.2 Tenant will comply with any and all laws, ordinances, rules, orders and regulations of any governmental authority which are applicable to Tenant's operations in and on the leased premises.

4.3 Nothing contained herein shall prevent Tenant from charging an admission price for persons to visit the art museum located on the leased premises. City Administration shall be allowed to use facilities when available at no charge for official City of Beaumont business.

## ARTICLE 5 -Alterations. Additions or Improvements

Tenant shall not, without first obtaining the written consent and approval of Landlord, make any alterations. additions or improvements in, to or about the leased premises; provided, however, that such consent shall not be unreasonably withheld. Any work done

by Tenant in, to or about the leased premises shall be done in a good and workmanlike manner and without impairing the structural integrity of the Building, and no liens shall attach to the leased premises or to the Building of which same are a part. Similarly, during the term of this Lease, City will not, make any alterations, additions or improvements in, to or about the facilities without first giving notice to Tenant of Landlord's intent.

#### ARTICLE 6 -Activities Increasing Fire Insurance Rates

Tenant shall not do or suffer anything to be done in or about the leased premises which will increase the rate for the fire insurance on the leased premises.

#### ARTICLE 7 -Assignment or Sublease

Tenant shall not, without first obtaining the written consent of City Manager of Landlord, which consent shall not be unreasonably withheld, assign, mortgage, pledge or encumber this Lease, in whole or in part, or sublet the leased premises or any part thereof. This covenant shall be binding upon the Tenant and every person to whom Tenant's interest under this Lease passes by operation of law. However, Tenant may rent a portion, but not all, of the leased premises for periods not to exceed 72 hours without first obtaining the written consent of the City Manager of Landlord.

#### ARTICLE 8 - Damage to Building

8.1 If the Facilities are damaged by fire or any other casualty, all insurance proceeds for such casualties shall be paid to either Tenant or City, as their interest may appear and as their loss may be allocated. Either City or Tenant may elect to terminate this Lease under the terms hereof should a fire or other casualty loss result in damage to the Facilities in excess of fifty percent (50%) of the replacement cost of such Facilities immediately prior to such casualty. Should either party elect such termination, then the

other party shall have the option for sixty (60) days after the date of such election to terminate the Lease or to elect to rebuild the Facilities. Any rebuilding or reconstruction of the Facilities shall restore such premises to substantially the same condition as existed prior to such casualty loss. Should either party elect to rebuild, such insurance proceeds as shall have been paid to both parties shall be deposited in a state or federal bank with offices located in the City of Beaumont, Jefferson County, Texas. Such insurance proceeds shall be held in escrow by such bank as a trust fund for the purpose of paying for the cost of rebuilding and repairing the Facilities and the cost of making temporary repairs of doing such work as may be necessary to protect the Facilities against further injury. Such proceeds shall be disbursed in accordance with the provisions of paragraph 8.2 hereof. The bank shall be entitled to a reasonable compensation payable out of such fund. If insurance proceeds held by the bank as provided in this paragraph shall exceed such costs, such excess shall belong to and be paid over to the parties who deposited said amounts in proportion to their interest in the account. If rebuilding of the Facilities is undertaken by Tenant under this Article, the construction shall be made subject to the approval of City.

8.2 Any monies paid out of the trust fund established under the terms of paragraph 8.1 hereof shall be paid as the work progresses, upon the request of the party performing the reconstruction, and against the certificates of the architect or engineer in charge of such reconstruction showing that the amount stated in the particular certificate has been paid or is due in respect to such work together with the names and addresses of the person, if any, to whom such amounts are due. Payments hereunder shall be subject to normal retainage applicable to construction contracts entered in by home-rule

cities in accordance with the laws of the State of Texas.

8.3 If the damage to the leased premises is less than fifty per cent (50%) of the replacement cost of the leased premises (exclusive of foundations and the Land) immediately prior to such casualty, then Tenant shall promptly after such casualty commence to repair the damage to the leased premises and restore same to substantially the same condition as existed prior to such casualty. In such event Landlord shall pay to Tenant the proceeds of the insurance paid to Landlord for such casualty loss.

8.4 Notwithstanding anything contained herein to the contrary, if any casualty occurs to the leased premises repair of which shall cost Twenty Thousand and No/100 Dollars (\$20,000.00) in excess of the insurance proceeds available for such casualty or which is not covered by insurance (either of such events being hereinafter called an "uninsured loss"), Tenant shall have one hundred eight (180) days after the date of an uninsured loss to elect by written notice to Landlord to either repair an uninsured loss or to terminate this Lease. If Tenant elects to repair the uninsured loss, Tenant shall commence to repair the uninsured loss promptly after the exercise of its election to repair hereunder and shall restore the leased premises to substantially the same condition as existed prior to the uninsured loss. If Tenant elects to terminate this Lease as set forth above on such uninsured loss, then Landlord shall have the option for a period of sixty (60) days after notice of such election to terminate by Tenant to elect to repair the uninsured loss and to continue the lease in full force and effect. If Landlord elects to repair the uninsured loss under the terms of this Paragraph, then Landlord shall promptly proceed to make such repairs as are needed to restore such uninsured loss to the leased premises. If the Tenant and Landlord elect not to repair as provided above, Landlord shall demolish

any remaining structures on the leased premises. Tenant upon such demolition shall pay Landlord the cost thereof out of any insurance proceeds up to the full amount thereof. Any cost in excess of the insurance proceeds shall be paid by Landlord.

8.5 Upon any termination of this Lease under any provisions of this Lease other than on a default on the part of Tenant, Tenant shall be entitled to remove all of its furniture, furnishings, and other property of Tenant located on the leased premises.

#### ARTICLE 9 - Insurance and Waivers of Subrogation

9.1 Subject to all limits, deductibles and limitations of its policies chosen by City, City shall procure and maintain Texas multi-peril form hazard insurance coverage on the Facilities in not less than the full insurable value thereof. Such insurance shall be obtained in the name of City.

9.2 Tenant shall procure and maintain all insurance which it deems necessary for its protection against loss of or damage to any of its property in or on the leased premises.

#### ARTICLE 10 - Eminent Domain

10.1 If the whole or any part of the leased premises shall be taken under the power of eminent domain, this Lease shall terminate as to the part so taken on the date, hereinafter called the "date of taking", that Tenant is required to yield possession of the whole or part of the leased premises so taken. The term date of taking shall also mean and refer to the date of any other transfer of possession of any part or all the leased premises to a condemning authority under power of eminent domain. On any taking of all of the leased premises by power of eminent domain this Lease shall terminate on the date of taking and the rent reserved herein shall abate. If less than all of the leased premises shall be taken by power of eminent domain, then Tenant shall have one hundred eight



(180) days after the date of such taking to exercise an option to terminate this Lease or to keep this Lease in full force and effect. Such option shall be exercised by written notice to Landlord.

10.2 All compensation awarded for any taking of the leased premises under power of eminent domain shall be the property of Landlord and Tenant hereby assigns its interest therein to Landlord.

10.3 The term "eminent domain" as used herein shall include the exercise of any similar governmental power and any purchases or other acquisition in lieu of condemnation.

#### ARTICLE 11 - Landlord's Remedies on Default

If Tenant defaults in the payment of rent payable hereunder, or either party hereto defaults in the performance of any of the other covenants or conditions hereof, such non defaulting party may give the other party notice of such default; and if Tenant does not cure any default covering the payment of Rent or other sums of money hereunder within thirty (30) days, or other default within sixty (60) days, after the receipt of such notice (or if the default is of such nature that it cannot be completely cured within such period of time, if Tenant does not commence curing such default within such sixty [60] days and thereafter proceeds with reasonable diligence to cure such default), then Landlord may terminate this Lease by written notice to Tenant, or in the alternative Landlord may reenter and take possession of the leased premises and remove all persons and property therefrom, without being deemed guilty of any manner of trespass. If this Lease shall have been terminated by Landlord, Landlord may at any time thereafter resume possession of the leased premises by any lawful means and remove Tenant or other occupants and their belongings

and property therefrom.

#### ARTICLE 12 - No Waiver of Covenants or Conditions

The failure of either party to insist on strict performance of any covenant or condition thereof, or to exercise any option or election herein contained, shall not be construed as a waiver of such covenant, condition, option or election in any other instance. This Lease cannot be changed, amended or terminated orally.

#### ARTICLE 13 - Quiet Enjoyment

Landlord covenants that if, and so long as, Tenant pays the rent herein reserved and performs the covenants hereof, Tenant shall peaceably and quietly have, hold and enjoy the leased premises for the term of this Lease, subject to each and all of the covenants and provisions of this Lease.

#### ARTICLE 14 - Headings

The headings of the several Articles in this Lease are intended for convenience and reference purposes only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

#### ARTICLE 15 - Binding Effect

The provisions of this Lease shall apply to, bind, and inure to the benefit of the Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns; provided, however, that the inclusion of assigns in this sentence shall not be construed to permit any assignment in violation of the covenants herein contained.

#### ARTICLE 16 - Construction

16.1 This Lease, and any and all amendments, modifications or other writings pertaining thereto, shall be construed under and pursuant to the laws of the State of Texas.

16.2 In the event that any provision hereof, or the application thereof to any person or circumstance, shall be adjudged invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

16.3 In construing this Lease, masculine or feminine pronouns shall be substituted for those neuter in form, and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

16.4 Any notice or demand required or permitted to be given by the terms of this Lease shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by registered or certified United States mail, return receipt requested, in a postpaid envelope properly addressed to the party entitled to receive such notice. Notices shall be addressed to the parties at their respective addresses set forth above, or to such other address as the parties may later designate by written notice given as provided herein. Notice shall be to have been duly given, if delivered personally, upon the delivery thereof, and if mailed, upon the earlier of (a) the actual receipt thereof, or (b) three (3) business days after the mailing thereof, provided that such notices, if mailed, are addressed and transmitted as herein required, with full postage prepaid.

#### ARTICLE 17 - Maintenance

During the term of this lease agreement Tenant shall be responsible for all general upkeep of the Facilities. City will be responsible for the general structural maintenance of the building, HVAC system operation including annual checks and

replacement of filters, roof and exterior windows. City will also be responsible for grass cutting and trimming and permanent landscaping maintenance in accordance with the City's regular schedule, inspection and maintenance of the fire sprinkler system and lawn irrigation system as well. Tenant will be responsible for all utilities, including gas, electrical, water and garbage collection costs, telephone and cable television or other communication devices. Tenant will also be responsible for routine maintenance, routine plumbing, janitorial service, replacement of luminaries and interior painting, as well as maintenance and repair of the fire alarm system and security system. Tenant is also responsible for the monitoring of these systems.

IN WITNESS WHEREOF, Landlord and Tenant have executed (or caused to be executed by their duly authorized officers or agents) this Lease, all as of the day and year first above written.

CITY OF BEAUMONT

ART MUSEUM OF SOUTHEAST TEXAS

By: \_\_\_\_\_

By: \_\_\_\_\_

## AGREEMENT FOR THE OPERATION OF AN ART MUSEUM

WHEREAS, the Art Museum of Southeast Texas, a Texas non-profit corporation, hereinafter referred to as "Museum", and the City of Beaumont, a municipal corporation of the State of Texas, hereinafter referred to as "City", agree as follows:

### 1.

City hereby hires and engages Museum to operate an art museum open to the public on the premises leased from the City and described in Exhibit "A" attached hereto and made a part hereof for all purposes (herein "the premises"). Museum agrees to accept such hiring and hereby agrees to operate such art museum.

### 2.

So long as Museum operates an art museum upon the premises City agrees to pay museum the sum of Fifteen Thousand and no/100 dollars (\$15,000) per month an amount approved by the City Council each fiscal year commencing on the 1<sup>st</sup> day of October, 2014. Payments hereunder shall be subject to adjustment upon agreement of Museum and City.

### 3.

City or Museum may terminate this Agreement for cause if either party defaults in the performance of any covenant or condition of this Agreement. Prior to such termination City or Museum must provide the other party with written notice of such default and if the party does not cure the default within fifteen (15) days after the giving of notice the party giving such notice may terminate the Agreement by written notice.

IN WITNESS, WHEREOF City and Museum have executed or caused to be executed by their authorized officers or agents this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF BEAUMONT

ART MUSEUM OF SOUTHEAST TEXAS

By: \_\_\_\_\_

By: \_\_\_\_\_